

ESTTA Tracking number: **ESTTA270791**

Filing date: **03/09/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91182572
Party	Defendant Metrosonics Concepts Limited
Correspondence Address	C.G. Gordon Martin The Law Offices of C.G. Gordon Martin 13006 East Philadelphia Street, Suite 207 Whittier, CA 90601 UNITED STATES cggordonmartin@earthlink.net
Submission	Answer
Filer's Name	C. G. Gordon Martin
Filer's e-mail	cggordonmartin@earthlink.net, nicholas_penkovsky@yahoo.com
Signature	/c. g. gordon martin/
Date	03/09/2009
Attachments	8 Answer to Opposition 2009 03 09.pdf (4 pages)(19023 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In Re Application

Serial No.: 77-086,256

Applicant: Metrosonics Concepts, Ltd.

Mark: METROSONICS

Filed: January 19, 2007

Published: December 18, 2007

_____)	
PETER MIGNOLA d/b/a METROSONIC)	
)	
Opposer,)	Opposition No.
v.)	91182572
)	
METROSONICS CONCEPTS, LIMITED)	
)	
Applicant.)	
_____)	

APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSE

TO NOTICE OF OPPOSITION

Applicant Metrosonics Concepts, Ltd. (“Applicant”) hereby submits its answer and affirmative defense to the Notice of Opposition (“Opposition”) filed by Peter Mignola d/b/a/ Metrosonic on February 15, 2008 as follows:

1. Applicant lacks sufficient information to form a belief as to the truth of the averments asserted in Paragraph 1, and therefore denies them.

2. Applicant lacks sufficient information to form a belief as to the truth of the averments asserted in Paragraph 2, and therefore denies them.

3. Applicant lacks sufficient information to form a belief as to the truth of the averments asserted in Paragraph 3, and therefore denies them.

4. Applicant lacks sufficient information to form a belief as to the truth of the averments asserted in Paragraph 4, and therefore denies them.

5. Applicant admits that on January 19, 2007 Applicant filed an application to register the service mark METROSONCS in International Class 41 for entertainment, namely live music concerts. Applicant admits that the application was given Serial Number 77-086,256, and that the mark was published for opposition in the *Official Gazette* (Trademarks) on December 18, 2007. Applicant denies the remaining averments of Paragraph 5.

6. Applicant denies the averments of Paragraph 6.

/ / / /

/ / / /

[Document continued on next page.]

AFFIRMATIVE DEFENSE

1. Applicant is informed and believes and thereon alleges that Opposer's claims are barred by the doctrine of laches.

WHEREFORE, Applicant respectfully requests that the Opposition to application Serial No. 77-086,256 be dismissed, with prejudice.

Respectfully submitted,

METROSONICS CONCEPTS, LTD.

Dated: March 9, 2009

By: / c. g. gordon martin/
C. G. Gordon Martin
California State Bar No. 66718

C. G. Gordon Martin
The Law Offices of C. G. Gordon Martin
13006 East Philadelphia Street, Suite 207
Whittier, California 90601
Telephone: 562-907-9767
Facsimile: 562-907-9921
E-mail: cggordonmartin@earthlink.net

Attorney for Applicant/Defendant
Metrosonics Concepts, Ltd.

**PROOF OF SERVICE BY MAIL
(FEDERAL)**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 13006 East Philadelphia Street, Suite 207, Whittier, California 90601.

On March 9, 2009 I caused the foregoing document(s), described as **APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSE TO NOTICE OF OPPOSITION** to be served by mail upon the person(s) shown below, by placing a true and correct copy thereof in an envelope (envelopes) addressed as follows:

Nicholas A. Penkovsky
Law Offices of Nicholas A. Penkovsky, PC
112 Madison Avenue, 6th Floor
New York, New York 10016

Attorney for Opposer

by sealing said envelope(s), and by placing it (them) with postage fully prepaid for collection and mailing on that same date following the ordinary business practices of The Law Offices of C. G. Gordon Martin, at its place of business, located at 13006 East Philadelphia Street, Suite 207, Whittier, California 90601. I am readily familiar with the business practices of The Law Offices of C. G. Gordon Martin for collection and processing correspondence for mailing with the United States Postal Service. Pursuant to said practices the envelope(s) would be deposited with the United States Postal Service that same day in the ordinary course of business (California Code of Civil Procedure § 1013a(3)). I am aware that on motion of a party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in the affidavit or proof of service.

In addition, a courtesy copy of this document is being served upon Opposer's attorney via e-mail at the following address:

Nicholas A. Penkovsky – nicholas_penkovsky@yahoo.com

I declare under penalty of perjury under the laws of the State of California and the United States of America that the above is true and correct.

Executed on March 9, 2009 at Whittier, California.

C. G. Gordon Martin
Printed Name

/c. g. gordon martin/